

MILFORD PLANNING BOARD MINUTES - OCTOBER 21, 2003

Present: Walter Murray, Chairman
Paul Amato, Vice-Chairman
Steve Sareault
Jim Dannis
Tom Sloan
Walter Fitch
Richard D'Amato, Alternate
Noreen O'Connell, BOS Representative

Bill Parker, Director of Planning/Community Development
Lincoln Daley, Assistant Planner
Shirley Carl, Admn. Asst.

Minutes – September 16, 2003

Frank Coffey – Elm St. – Map 18, Lots 2 & 3 – Rescission of previously approved site plan

Hitchiner Mfg. Co./Barrett – Elm St. Map 7, Lot 6 – Site plan for a golf driving range – Request for extension

Mayo Six, LLC/Woodland Heights Apts. – Powers St. – Map 43, Lot 32, 33, 35 – Site Plan

Town of Milford/US Cellular – 1 Union Square – Map 26, Lot 178 - Public hearing for a telecommunication facility

Leon & Nancy Frye – 185 Mt. Vernon Rd. – Map 8, Lot 78 – three- lot subdivision

Craig & Wendy Frye – 189 Mt. Vernon Rd. – Map 8, Lot 77 – two-lot subdivision

Danielson Realty Trust – Ponemah Hill Rd. – Map 48-52 – two-lot subdivision

Falcon Ridge – Maple St. & Whiting Hill Rd. – Map 3, Lots 4 & 5 – Continuation of design review

Marc deMontigny – 322 Nashua St. – Map 25, Lot 109 – withdrawn

Marion Vallier – 149 Mile Slip Rd. – Map 45, Lot 18 – two-lot subdivision

Motion to approve _____

Seconded _____

Signed _____

Chairman Murray opened the meeting at 6:30 pm

1. Minutes – no action

2. Frank Coffey - Elm St. – Map 18, Lots 2 & 3 – Rescission of previously approved site plan

Mr. Coffey was not present at this time; the Board proceeded with discussion on this matter.

S. Sareault asked B. Parker that if the Board rescinded the site plan to bring the entire site into compliance, does it default back to the pre-existing condition prior to the application? B. Parker responded that he felt it would fall back to the previous non-compliant condition. S. Sareault stated that Mr. Coffey was given a temporary right to use the additional lot, which has since expired because of their site plan. As a result, he is now back to one lot. Since Mr. Coffey wasn't present there were some questions that couldn't be answered i.e. why did he go to all the expense and work if he wasn't going to do it anyway; is he not doing it because of the conditions? B. Parker then informed the Board that he hasn't received any response from the letters that were sent to him. In May or June, he come in after he had finally collected the certified letter and said he would be right in with the bond amount and hasn't shown up since. P. Amato asked that if the Board votes to rescind the site plan, what is done – does Kevin Lynch pay him a visit? B. Parker responded that Mr. Coffey has an entire site that is not in compliance and the entire Cease & Desist process takes place. Chairman Murray then asked if the Board has to have another hearing on this matter. B. Parker referred to State Law RSA 676:4-a – "Revocation of recorded approval, it states that prior to recording any revocation, the Planning Board shall give notice to the public, applicant and abutters detailing the reason for the revocation. After notices, a hearing shall held at the request of any party receiving such notice, submitted within 30 days of receiving such notice, or if the Planning Board determines to hold a hearing".

Chairman Murray then opened up the meeting for discussion:

S. Sareault asked about action on the underlying (default site plan) should we also be taking action on that at the same time? B. Parker doesn't have the answer, but thinks that Town Counsel should be consulted on what the Board would actually be acting on. S. Sareault then commented that if the Board is going to take action on this site to rescind the current site plan, which will then end up going to the default site plan, which the Board has problems with and is in non-compliance, we should be acting upon the entire issue at once. Chairman Murray felt that is what we could do at the public hearing, if we set a public hearing for next month. N. O'Connell feels that the Board needs to sit down and go through both site plans to find out what is or is not in compliance. S. Sareault then commented that it looks like Mr. Coffey has only been notified based on the most recent site plan.

J. Dannis had a couple of points:

1. As a matter of personal fairness, it would be good if we contact Mr. Coffey in person. He noticed that Mr. Coffey hadn't picked up his certified notice for

several weeks and one never knows if a person has a habit of avoiding certified letters. Just as a way of making sure e he has actual notice, someone should reach him in person or telephone so that he is, in fact, aware of what is happening. It is surprising that he has spent all that money to go through the process and doesn't go forward with it. Something doesn't ring right.

2. If this is the first time we are rescinding a site plan, it makes sense to speak with Bill Drescher and make sure we are acting fairly and consistently. If we are actually going forward and take this kind of action and, he is in favor of it because laws have to be followed, he thinks we are equally obligated to follow the laws in all circumstances. We should have a set of procedures where we at least know when there is non-compliance and it is brought to the attention of the Board, so the Board can make a decision. He doesn't want to be viewed as singling out any one applicant and he feels there should be one set of procedures whereby we look to see that what has been approved is in fact being complied with.

T. Sloan stated that he knows that the first certified letter wasn't picked up for several weeks but the second one was picked up the day after it was mailed and feels he has been duly notified and part of the history came before J. Dannis was on the Board and that he has been very difficult to reach and come into compliance on other issues. He doesn't think trying to contact him, other than we have already done, would be an extra measure we don't need to take. He agrees that the Board should contact Mr. Drescher but propose it would be placed on the November agenda so that both issues could be taken care of both (This non-compliance as well as the old site plan).

Both P. Amato and N. O'Connell were in agreement. W. Fitch felt that maybe he doesn't deserve it or maybe we shouldn't do it but a personal visit would be nice before we Cease & Desist.

T. Sloan made a motion that this rescission be scheduled for November 18, 2003, in consultation with Mr. Drescher to take up the former site plan with which he wasn't in compliance or not; seconded by N. O'Connell; unanimously voted.

Note: Mr. Coffey arrived late, sat through the entire meeting and was given the opportunity to speak at the end of the night.

Mr. Coffey apologized to the Board for his tardiness.

Chairman Murray requested that he enlighten the Board as to why he hasn't complied with the stipulations that were asked of him at the time approval was given.

Mr. Coffey was given the floor. He started by thanking the Board for the conditional approval of his site plan and stated that E. Sanford presented a very nice site plan for the used car lot. As he developed estimates and drew up a master plan for his the whole operation, he found that the conditionally approved site plan didn't work with his plans for the operation. The landscaping before the demolition of the garage doesn't work. He spoke to the demolition of the garage and he isn't ready yet, but is closer

than before. The antique shop which, is where the garage is, and in order to convince Mr. Forsyth (former owner) to move so that he could develop the property, he had to purchase all of his "so-called antiques" which turned out to be more like glorified yard sale items. As a result, that is taking up a lot of space in the garage and that is the reason it hasn't been demolished. The season, as it is now, things are slowing down in the auto sales business, so he will have more time to dedicate to the disposal of all the memorabilia, vacate and demolish the building. It is his intent to demolish the building completely and he has spoken to a building contractor in the last seven days and he thinks he would like to come back before the Board, once he has demolished the old garage, with a plan to construct some type of metal building.

Kevin Lynch had spoken to him over the last several years, and advised that I should think about demolishing the old house and barn but he is reluctant to do so, but some issues have arisen as a result of survey and the proposed site plan near the street side of the old site plan approval. Those cars that are currently in front of the building seem to be in the right-of-way and when he pulls the cars back, he makes it virtually impossible for cars to turn around at the front of the building unless it is a golf cart. That creates a problem for emergency vehicles, and for him and he is seriously thinking of removing that section of the building but he needs something other than what he has in order to accomplish his goals. He asked the Board to grant him some time, he thinks he needs to return to the Board with a revised proposal showing a footprint of the building somewhere in the area of 2,400 to 3,000 SF; it has to be at least 1,600 SF to comply with the motor vehicle department and auto dealerships. He believes he needs a second permit to demolish the building. He needs to move the building back away from the setback; he has no intention of placing any buildings/structures within the setback. He knows the building is right on the property line and in fact his survey found some encroachment into the Sheldon's property.

He has spoken with E. Sandford (he is real busy) but he has spoken to Earl's recommendation for a metal building contractor and met with him last week. We ironed out some preliminary plans and now are ready to throw himself on the mercy of the Board. He came to the Board with a proposal for the site plan in good faith, tried to execute the plan and it didn't work for a variety of reasons and now he still wants to go and develop the property in a responsible manner. The use of the property is basically benign and he has entered into a tentative agreement to purchase the MCO property next to Kelley's Restaurant and put a lot of his cars down there. The impact on the site, in terms of usage at this time, is much lighter than it was.

P. Amato reverted back to Mr. Coffey's comments that he made a good faith effort to abide by the site plan. He asked for some enlightenment regarding that because the cars are still within the right-of-way, there has been no attempt to do anything. Mr. Coffey responded that he doesn't own an excavator; he needs to get an excavator in there. P. Amato then stated that the plan was approved on May 20, 2003, and missed whatever season there was to do any landscaping this year, now we still have the cars right out to the edge of the road, in the right-of-way, and he can't see that there has been any effort, whatsoever, on Mr. Coffey's part to do anything. Why would the Board want to give him more time, the \$5,000 security wasn't received, why would we want to say Okay go back and start all over again. The Board has been put in a very difficult

position. If something had been done to show that you were even attempting to try to comply it would be different; B. Parker sent out two registered letters. N. O'Connell felt the same way. T. Sloan then took the opportunity to inform Mr. Coffey that the Board did take action upon his site plan earlier in the evening. He doesn't know how the Board will be able to reverse the revocation of that and that in consultation with B. Drescher to tell him to stop whatever is being done on the site because we don't have any evidence that you have tried to come into compliance. The bond hasn't been posted and asked if that was because he knew he wasn't going to do it and was going to lose the \$5,000?

F. Coffey then informed the Board that he didn't sign the plan. The Board approved the plan with your conditions, and he didn't agree with the aforementioned conditions. P. Amato then asked why he waited from May to October to inform us of that? Mr. Coffey didn't have an answer.

S. Sareault stated that he would like to proceed by standing on our earlier decision and if the applicant comes before us at that hearing and has something to be heard, the Board will listen and treat the person fairly. If the applicant is heard at that point in time, which he believes the Board will, we can listen to what is said and the promises that would be put forth and hold them to those promises and see if it is done. He is not in agreement with reversing our decision. Is he willing to listen to the applicant when he comes before us in November, yes. N. O'Connell feels very comfortable with S. Sareault's suggestions. Everyone on the Board was in agreement with S. Sareault.

Chairman Murray then informed Mr. Coffey that there will be a public hearing on November 18th, he is more than welcome to come because he is part of it. At this point, Mr. Coffey asked what the Board would suggest he comes back with and Chairman Murray informed him that isn't the issue of the Board. The Board has listened to him on more than one occasion. Mr. Coffey stated that the Board has given guidance to other applicants before this Board and you are now telling me that the Board is willing to do nothing other than to sit in judgment. Chairman Murray then stated that he had received an approval to go forward with something and opted, after getting through that process, not to bother with it, am I correct? Mr. Coffey responded that he chose not to go through with the process and it is his prerogative. Mr. Murray agreed and then commented why should the Board give him guidance since he doesn't listen to it. T. Sloan then stated that he had lied about what he was going to be doing in good faith about the plan that was approved. He asked if he was willing to go forward with it, now you are saying you don't agree with the plan and doesn't want to have anything to do with it. Mr. Coffey then stated that, over time, it became evident to him that the plan was not executable based on his financial resources. N. O'Connell felt that this should all go before the hearing in November and advised him to come back in with what he feels he want to tell us, and the Board will work on what we need. Tonight's decision has been made.

3. Hitchiner Mfg. Co./Barrett – Elm St. – Site plan for a golf driving range – tabled 9/16/03 – Request for an extension

S. Sareault made a motion to grant the requested extension; J. Dannis seconded; all in favor. The extension was granted to January 20, 2004.

4. Mayo Six, LLC/Woodland Heights Apartments - Powers St. – Map 43, Lots 32, 33, 35 – Public hearing for a site plan to construct a pool building addition, tennis court and storage units – new application

A motion was made by S. Sareault, seconded by W. Fitch and unanimously voted that the proposed site plan represents no potential regional impact.

The owner/abutter list was read into the record: Present – Dale White of Mayo 6; J. Kevan of TFMoran; no abutters. A call was received today and they don't have any objections.

Motion made by S. Sareault, seconded by T. Sloan; all in favor to accept the application.

J. Kevan made the presentation:

1. The complex encompasses three parcels as noted above.
2. He pointed out what is on the three different lots.
3. Proposing work on two of the lots i.e. pool building 43/35;
4. Some of the work has already been done and we are here to get formal approval to add a driveway to the back and add pavement to the rear of the site.
5. Proposing a 24x28 rental office/pool house with additional pavement and restripe three spaces i.e. one handicap and two regular.
6. No additional lighting

Map 43, Lot 33

1. Add a 60x120' tennis court and some storage units to provide storage for the buildings themselves i.e. 52 – 10x10 storage units. They are proposing a tan color with forest green doors. Building will be 8 ½' tall, a low-profile unit. There will be six parking spaces.
2. Lighting – they have looked at six focus lights, 20' high, downcast and concentrates the lights on the tennis courts.
3. We will maintain the existing trees between the parking and buildings and the tennis courts.
4. The lights are 8½' tall, there would be wall-pac units mounted about 7½' off the ground.
5. They would have underground electric.
6. He met with Kevin Lynch and L. Daley today to discuss a couple of drainage issues and are relative to the proposed improvements. He would have to make some modifications to the drainage to address the issues and he has agreed to do it.

S. Sareault questioned the areas proposed to be paved on the storage and tennis court portion? J. Kevan responded that the tennis courts would be bituminous. He referred to the plan. Regarding the storage units, all the area is proposed to be paved and they are open to discussion. S. Sareault stated that it was mentioned that the storage units are for occupants only. Does each unit have its own storage or is this additional. There is a need for storage, so there won't be any additional increase in density, as a result of this application. He continued by asking what would the conditions be on the use of the storage units i.e. would it be a working garage, etc. Internal power would be strictly

to provide lighting on the exterior of the units; he doesn't think any of the units are temperature controlled, etc. S. Sareault feels a note should be added to the plan that there would be no outside storage. Kevin Lynch then stated that there is outside storage for seasonal use i.e. boat trailers, campers, etc. T. Sloan then spoke to what is allowed in Res. "B" district and self-storage isn't allowed and feels that is not an appropriate addition to the apartment complex. J. Kevan stated that this is permitted as an accessory use. T. Sloan disagrees. He feels the Board should make note that the use isn't allowed in that zone. B. Parker stated that he believes they are classified as an accessory use because they are restricted to the occupants of the apartments. Kevin Lynch stated that the use is listed as Res. R-2. Self-storage definition is for commercial only and it is in a restricted location; this is a permitted use, it is strictly used for the tenants of the apartments. The Town doesn't have to be involved as to how they are rented out, only to whom they are renting to. There are eight buildings, 240 apartments and they have a need for 52 more storage units.

Drainage discussion ensued. The elevation of the parking lot is about 177' with a 13' grade difference. The tennis courts and the buildings will be at the same grade. They are not concerned with water going down the road. There is a pocket and all the runoff will be directed through there. There are some pockets that are at elevation 180' and lower and he tried to explain further by showing it on the plan.

N. O'Connell then spoke to lighting on the tennis courts and asked if they will be on all night; J. Kevan responded that they would be on, on an as-needed basis. Regarding the storage units, they could be put on the same type of system. It should be noted that these storage units are strictly for use of the tenants of the complex. She then spoke to the pool, is there a reason we are just taking up the pavement and leaving it gravel? J. Kevin responded that they would replace it with grass.

Kevin Lynch stated that we went over the plan to make sure that J. Kevan had addressed everything regarding drainage.

S. Sareault asked if the applicant is willing to sign the restrictive use document regarding that the storage is only for use by the tenants in the apartments? J. Kevan responded in the affirmative.

A motion was made by S. Sareault to approve the plan subject to:

1. Applicant signing The Notice of Restricted Use;
2. All drainage issues be worked out with Code Enforcement Officer; and
3. No outside storage; and
4. Comply with staff comments.

Motion seconded by P. Amato and voted by majority vote. T. Sloan voting in the negative.

5. Town of Milford/US Cellular - 1 Union Square – Town Hall – Public hearing for a telecommunication facility – Public hearing for a telecommunication facility - new application

Chairman Murray requested that Board Member, N. O'Connell Selectmen's representative to step down since she sat on the presentation to the BOS. Richard D'Amato then took N. O'Connell's place. Chairman Murray also informed everyone that he was notified as an abutter (he has property on the Oval) and asked if anyone had an objection to his sitting on this particular hearing. Mr. Kozyra didn't have any objection at this time.

A motion was made by T. Sloan that this proposal represents no potential regional impact, seconded by R. D'Amato and unanimously voted.

The owner/abutter list was read into the record: Present: Nancy Amato, Chairman Milford Board of Selectmen and Katie Chambers, Town Administrator; Kenneth Kozyra representing US Cellular; Walter Murray.

A motion was made by S. Sareault, seconded by R. D'Amato and unanimously voted to accept the application.

Kenneth Kozyra representing US Cellular made the presentation to replace the existing two towers on the roof of the Town Hall. It is a multi-faceted proposal and has two purposes:

1. Provide US Cellular with a location for antennas to provide coverage for the people that work, live and travel through the Town of Milford.
2. To replace the two antiquated structures and to give MACC Base the ability to replace their equipment and provide better transmission for the areas they serve.
3. This proposal will have no cost to the Town or MACC Base. If approved, once the facility is constructed, we will give it to the Town and continue to pay the Town a monthly rent for the space. We won't have any interest in the tower nor have the ability to lease or provide any space to anyone but the Town may do whatever they want to do.
4. At this time, he referred to plans that were submitted

S. Sareault stated that in the past, we have required balloon tests and feels that might be in order, not just for the Board, but the Town in general. K. Kozyra responded that they would be happy to do that if the Board deems necessary. He continued explaining how a balloon test would be done.

Continuation of 10/21/03

He provided the Board with color photos and photo simulation and explained what they were. Three photos of the existing rooftop from different angles. 1st – one of the existing guy wire towers and the haphazard cables; 2nd – looking down from the western part of the roof on the facilities with the wires attached and the air conditioning units; 3rd a shot from the eastern side which gives another prospective of the guy towers. He continued with explanations of other photos, which were part of the submitted package. He doesn't think a picture was taken from the front of the library. P. Amato questioned the diameter of the existing tower versus the proposed one. K. Kozyra responded that the first tower has 1' base and each of the towers have three sides and the existing

towers are 1' on each side. The new tower will be 2'8" so it will be a little larger than double the size of the existing. There will be a lattice work, which is exactly what is presently there, because on portions that will not be occupied by antennas gives an illusion that you can actually see through the facility rather than have a solid structure on the roof.

Currently, USC has three different types of technology that we deploy in southern New Hampshire:

1. We have the existing analog system (bag phone);
2. We have the previous digital system (TDMA – hand held cellular phone)
3. On October 1st, we deployed a brand new system-wide upgrade throughout NH, which included our existing facilities in Milford for a new technology aka CDMA, the exact technology used by Verizon and spread through our competitors. The existing TDMA network is no longer upgradeable. All our facilities will be the CDMA only and will eventually migrate the TDMA to this. We have an existing facility on Dram Cup Hill; one in Amherst – Milford East and is located on the Pennichuck Water Tank; other than those we don't have any CDMA facilities within the TOM. We do have an existing TDMA and ANS facility on the Federal Hill Fire Tower but it doesn't have the capacity to hold additional equipment that will be required for CDMA so it will not be upgraded. We have other facilities that surround Milford that provide coverage i.e. Wilton, Mont Vernon, Walnut Hill in Amherst, Camp Sargent in Merrimack and South Brookline. He again went to a map and explained that in a perfect world the entire map would be green but we have three enemies of cell phones i.e. trees, valleys and hills. Each of these interferes with our signals and downtown Milford is located in its own little valley surrounded by various hills and this makes it very difficult to propagate a signal into Milford. We are attempting to provide a network that would provide coverage that is known as in-building coverage.

We worked in downtown Milford for approximately two years before we were able to come before you tonight. That involved reviewing a significant number of alternate candidates to the roof of this building and various proposals to the roof of the building. We looked at several candidates and the reason they were ruled out.

1. Mayflower Water Tank – it sits just below the tree line and being below the tree line, any signals if we were to mount the antennas to it would go right into the trees and block the coverage.
2. Patch Hill was ruled out for the same reason. Both of these facilities were located in residential neighborhoods surrounded by houses, which we shy away from as much as possible.
3. Prospect Hill Water Tower – this tank is of significant age and DPW felt strongly that anything exterior could not be mounted to the top of that and there isn't any land surrounding the tank.
4. Woodland Heights Tower – off Powers St. and owned by SBA. This is a large tree structure with existing carriers on it and we ran propagation from the next slot down and while it provides a good basis of coverage, it still leaves some holes around Rte. 13 and 101. We eliminated it because the facilities are built up on three sectors (antennas)

going in three different directions. With that facility providing the majority of its coverage to the downtown Milford area, the sector that was to be pointing towards downtown Milford would be overloaded and reach capacity. This facility is acceptable to the three other carriers because they have a different network than us, it was not acceptable to us because our technology requires that we be in the center of the areas where we want to provide coverage and by mounting on the roof of this building (Town Hall) it allows us to share the load on downtown Milford from three different antennas and eliminates the possibility of reaching capacity unless a large capacity of people were on USC phones at the same time. The result from the Milford downtown tower on the roof of this building provides coverage throughout the downtown area, acceptable coverage along Rte. 101 and the By-pass (with a small glitch) and connects here.

The Board was provided with a package showing the different facilities in the area with an explanation of each.

R. D'Amato asked if it becomes an agreement or a contract? K. Kozyra responded that we are currently in negotiations with the TOM but our lease hasn't been finalized, but we feel confident that we will be able to. If this happens, we would give the tower to TOM and it would be theirs to do with what they want.

S. Sareault asked the representative what "give the tower to the TOM" means. K. Kozyra explained that the TOM would have no cost. At some point in time, the existing tower would have to be replaced and the money would have to come from the tax dollars because the towers are ready to fall over at any moment. We have good faith and to help make this possible propose to do that replacement for them and give the facility to TOM without any cost. They would then have the ability to locate all their municipal equipment on there and if they wanted to do anything else with the tower, they could. J. Dannis asked who would have the obligation to fund taking it down, if it were no longer necessary. K. Kozyra mentioned that the BOS asked the same questions and we have no problem with posting a bond with the TOM for the removal if it ever were to be required to be removed. We will also enter into some type of agreement within the lease with the TOM for the maintenance of the structure.

P. Amato asked where the equipment would be located. K. Kozyra stated that within the attic there are equipment cabinets for USC and MACC Base, directly below the skylight and we will do some minor reinforcing to put our equipment in and it won't be visible from the outside. P. Amato then referenced to the new Telecommunication Ordinance and in particular historic buildings (see 10.c and 14). K. Kozyra stated that in another section of the ordinance, it gives us the right to replace the existing with a similar facility and we have attempted to do our best to comply with the ordinance and meet the USC's engineering needs and the needs of the TOM for their emergency services. We tried to balance everything and there was no perfect solution to satisfy all three. USC made compromises from their technical standpoint; the TOM made some from their standpoint and we are hoping the Board can give us some leniency on some of the issues.

P. Amato then brought up 7.093.B regarding the height. J. Dannis then went further and brought up a more important point wherein it says "it shall be replaced by.....that

does not significantly increase the visual impact on the community” and this is the question. He feels that P. Amato identified a question that isn't met and your application says you believe it is met. This is in 7.093.B subsection 10.c.

K. Kozyra stated that he responded to that section by stating that the applicant has attempted to the greatest extent possible to comply with this section and basically in that instance what we would be doing is asking the board whether they would see fit for us to ask for a waiver of this section or what they see fit would be required. P. Amato stated that it not be seen from the road and K. Kozyra responded that is physically impossible. We investigated, from USC's point of view, just putting up a flagpole or something similar on the roof, and while that would work for USC and allows us to still provide coverage, it does nothing to solve the TOM's issues with the two towers that need to be replaced shortly. We had to go back to the physical replacement of those structures with a similar structure rather than doing something that would just satisfy USC and allow us to completely comply with any portion of the ordinance. P. Amato informed Mr. Kozyra that the job of the board is to be very careful, no matter whom the applicant is. He isn't sure if this continues to serve the TOM well at the expense of some revenue for the TOM and solving some TOM issues but it clearly gives USC a lot of latitude based on our ordinance. Not sure.

R. D'Amato feels this is a good deal. We presently have a tower and it isn't sufficient and if we have someone to come to TOM, install the tower, pay for it and then give it to the TOM, what kind of a deal do we want? P. Amato asked if the BOS have ever asked the taxpayers whether they would rather pay to fix the TOM's issues in a different way, this could be done through a warrant article. K. Kozyra explained that the proposed tower would be what the TOM would propose for them; the only difference is that we are putting three panel antennas on the top of the tower - the cost would be approximately \$75,000 if no problems arise.

The discussion then turned to the issue of balloon tests. S. Sareault felt that would be in order for both the board and the TOM in general and asked for a comment. K. Kozyra responded that they would be happy to do that if the board deems it necessary and explained how the balloon test is done.

Clarification as to any possible problems, it was explained that if structurally, anything were to be found that needed to be done or replaced, it would be done solely at their (USC's) expense and will be covered in the lease.

S. Sareault then brought up what will be done on the top of the roof. How is the TOM's interest protected in regard to water infiltration? Guy towers will be taken out and put in, modifying the roof, etc. K. Kozyra explained that the existing guy towers don't penetrate the roof; they are just resting there, so they will be removed. We will work with the TOM's roofing contractor, whomever did the TOM's work will cut into the roof and make sure it is sealed so it remains under warranty. We will hire whatever contractor the TOM used. S. Sareault then moved on to the fact that the building is listed as historical. What are the issues and what will happen? K. Kozyra stated that we have commenced filing with the State of Historical Preservation and waiting for their input. They attended one meeting with the BOS, had some questions regarding if we

could mount the facility to the side of the building rather than the roof, what would that do to the structure instead of just replacing an existing tower on the rooftop and we ruled that out. We have to file Section 106 regardless of whether it is a historical structure or not and are awaiting a response.

J. Dannis agrees with P. Amato's comments. If this didn't have any visual impact incremental to what is already there, then it would be an easier question, but after looking at the photos, you are really replacing a whip with a solid structure and putting on all three faces of the structure 8' tall, solid antenna panels that are almost the full width of the faces. Looking at that as described and looking at the pictures, it seems to have a significant visual impact. He thought that their application would have addressed the regulatory standards of the board, which is what we are supposed to consider, i.e. the visual impact and the integrity of the structure. He didn't see much other than assertions that say it is less visually intrusive, and it won't have a significant impact. The question for the board is the visual impact and the impact on the structure, which is a detriment, outweighed by the benefit you produce. He feels there is a significant incremental visual impact and he would like to see more than just assertions that you have tried to meet a provision but he would like to see a clear indication of where your proposal doesn't comply with our regulation, so we can make a proper determination.

T. Sloan commented from the face size going from 1' to 2'8" and it seems there would be alternatives to the increase in face diameter.

Questions from the audience were taken:

Ted Bartlett, Director of Maintenance Operations for ATT Wireless and a resident of the TOM for many years. He asked why the Woodland Heights tower was ruled out and was given the same information as previously stated. He asked the USC mandate for E-911, do you need extra antennas to cover it - response absolutely not. The CDMA facility, ground equipment and the antennas will be fully compliant with the E-911 standards set out by FCC. Mr. Bartlett has no objection to the tower but spoke to increase in height, etc.

Charles Worcester, resident, stated that he isn't opposed to USC or any other cell company from locating in the downtown area. From an economic and communication standpoint it is probably needed. He objects to the visual pollution it presents to the TOM, a problem we have worked for many years to clean up; spent millions of dollars of taxpayer and private money to clean up the environment and the streetscape of the downtown area. This proposal thumbs its nose at the entire process for the sake of MACC BASE antenna system. USC has other alternatives, which may not be perfect, but they are not stopped from negotiating other transmission areas, some which maybe within this building itself i.e. converting the wooden louvers in the TOM belfry with fiberglass and mounting their transmitter devices behind the fiberglass louvers, visually they present no problem, they will not give them the coverage range that the ultimate perfect tower would but they would still serve the downtown general area for an adequate process. They may still have to put one or two more transmitter systems in to get the kind of coverage they want. This is economics, they are willing to sacrifice the historic aspects of things in the name of \$ for their pocket. He also stated that the visual presentations that were presented have some inconsistencies. One being that on

the schematic, they show the antennas at the very top of this tower arrangement, however, in the photo visuals they show it located about halfway up. The width of the tower – we are moving from a 12" unit to a 32" unit – 20" additional inches – almost double the size. Going by the geometry, it is almost three times the size of what is presently there. The width of both are very similar, if he were presenting this, he would have done a visual overlay showing both as they currently are and the other one would be in direct proportion. When questioned, they said the engineer had no problem; was that the TOM engineer, hired and paid for by the TOM or was that their engineer. He would venture to you that where this piece of equipment is going to be located is in a non-structural area between two buildings, one of two different ages, never intended to hold this kind of weight. They will have to sandwich on steel through existing brickwork which, we can't even get to hold up a banner out front without tearing the brickwork apart; how are we going to put an antenna system up there with tons of force being exerted against it during a normal wind storm. When asked, as to the wind velocity it could stand, the answer was 75 mph. The wind comes down this valley at far greater than 75 mph in a sustained windstorm when it has torn the eagle right off of Eagle Hall in years past.

Another issue, whether they are going to co-bundle the cabling that goes to the various antennas or whether they will allow them to be separate. If they are co-bundled, they present less visual impact but they become impossible to maintain. If they are separated, they can begin to visually maintain but they present more wind resistance and cause an engineering problem. The visual pollution issue that isn't being addressed, Section 106 application, he had copies given to the board to see what they have not done, yet we chuckle about putting a balloon up for a test so that from that location, photos are taken to all historic structures throughout the valley area to see what kind of impact or pictures because they are required to present to us photos taken from the top of the proposed tower out to the community itself. He doesn't think they have done their homework, this is done cheap and quickly for the sake of the almighty \$ not for the benefit of the public. He doesn't believe that this historic structure, nor the National Historic Trust, nor the State Historic Trust will grant approval on this proposal.

K. Kozyra stated that our engineer is a licensed professional engineer in the State of NH and has to adhere to standards and we also agreed for the BOS to have the TOM appoint an engineer to review all our documentation and we would pay for the engineer's review. That was a stipulation of the BOS. The antennas shown in the photosynthesis are mounted exactly as shown on the plan. We took the liberty of superimposing the whip antennas at the top of the 50' tower at the top of the 75' tower to give the Board the perspective of what the difference would be. The USC panel antennas are mounted in the exact location on the photosynthesis as they are on the plans. Wind loading – there are national standards set up by various design engineering groups that require each county, every tower constructed whether a tower mounted on a roof, ground or anywhere else, be designed to minimum standards - the minimum standard for Hillsborough County and the State of NH is 75 mph, sustained gusts with one-half inch of radial ice on the facility; far worse then we have seen in this part of NH in a long while. This facility is designed to go far past that and he doesn't think we have had anything close to a 75 mph sustained wind in this county in quite some time. It is designed to handle much more than that.

Co-bundling – the cables will be mounted on the interior side of the tower and run up to various antennas, MACC Base and ours. He doesn't understand the term "co-bundling". It may be a different term in our operation.

Section 106 requirements – he doesn't technically do that application so he can't tell you the status, it will be filed in accordance with regulations and sent to the State Office of Historic Preservation, which is an advisory group and is empowered by the FCC to give their opinion of the proposal. They are not a direct approval or denial granting organization.

R. D'Amato wanted to ask the Police, Fire, Ambulance or MACC BASE their opinion regarding replacing the tower and if we have to put a tower up there taller than the existing one. If we have to replace it, why couldn't we have someone else pay for it?

Nelson Taylor, MACC BASE felt that the existing tower needs to be replaced sooner than later. We have the right, to the best of his knowledge, even though it is a historic building, to replace it with the equivalent of what exists. He was asked if he would have to go higher than where the whip antenna is located and responded that he would recommend it. The way our equipment works is that when we are located in the valley, the object is to get our equipment as high as possible in the valley, so it will cover the valley and penetrate outside the valley to a certain extent. He wouldn't recommend much higher than the proposal of USC, he thinks 70' would be more than adequate and serve us well for many years, but as vegetation grows, population increases and trees gets denser and higher, that has to be adjusted for as well. W. Murray, Chairman asked if the circumference of the base would be substantially smaller than what they are proposing or would it be similar or the existing size? K. Kozyra stated that he couldn't honestly answer; he doesn't have a lot of tower knowledge. He would recommend some of your cellular engineers design the tower. He knows it is designed by wind, weight load, etc. He can't see it being much smaller than what they are proposing now to handle our equipment.

Mr. Bartlett can verify the above comments of K. Kozyra. He proceeded to address two issues.

1. Co-bundling – there are two methods of co-ax. One is to use a cable ladder, which would be similar to a climbing ladder that could go up the face of the structure with the co-ax attached to it. From a visual standpoint it blanks out one side of the tower with co-ax. The bundling function is to take the bundles and put them into a bundle and mount it to the inside of the leg structure of the tower. This does two things i.e. it is more pleasing aesthetically and it also has less wind resistance and wind resistance is helped.
2. This tower was designed under EIA/TIA specifications, Revision G. The structures on the roof have been there for approximately 25-30 years as noted by N. Taylor. T. Bartlett felt these were under Revision D or E and the wind specs are old, the wind load specs were significantly less than today. For us to put a structure on top of this building, just to meet the needs of MACC Base will not be substantially smaller than what is being proposed by USC at this time.

You may see a difference in the face of 6" but the leg and grid size and structural components will be greater than what is presently there now. J. Dannis asked if there is anywhere else in TOM that one could put the MACC Base antenna and have it work well. N. Taylor responded that based on most of the studies that USC have coverage wise and his experience with the other facilities we have around towns, he doesn't believe there is anything else, even in the downtown area, which would provide the coverage we get from the present site. Not to mention the potential loss, if we had to relocate this site to another area or transmit power and things of that nature. Currently, most of the transmitters upstairs are licensed for 100-110 ERPs. The FCC has come out with new regulations that are restricting the large ERPs and any new application to relocate them to a different facility would be reduced by at least half and the fact that the penetration of the coverage as well from that standpoint.

C. Worcester referencing Mr. Bartlett's comments stated that he had received that information directly from the manufacturer of the antenna systems that were being proposed in their specs and that was one of the issues either co-bundling or individually planning it and the issue was that if it wasn't co-bundled, we increase the wind load tremendously against one of the surfaces and it also has a visual impact far greater because one side is gone and you are looking at a mass of wire. What conveniently hasn't been responded to repeatedly is whether he could put his transmitters behind the tower louvers in this building? W. Murray, Chairman understood what was being asked but by the same token he believes the gentleman behind you answered the question that there would be no change in the visual effect on the roof if USC were to walk out right now. At some point in time in the very near future, we are going to have to replace the antenna or equipment that is on the roof now with something very similar to what they want to do. He is having a problem understanding your logic.

Eric Schelberg, Ambulance Director had some questions/comments:

1. As a citizen, the TOM is the only entity here as it relates to R. D'Amato's concerns as to whether an agency is coming in and crying foul and that USC might get a leg up on Planning Board regulations as it relates to the cellular tower communications but it is the TOM that provides the emergency dispatching services and only provides those services. No other entity would be coming in to do that but he doesn't know if that would be a successful argument against, if this were to be approved.
2. As the Director of the Ambulance Service, currently we are having difficulty with the MACC Base antennas that are currently up there due to the feedback issues, proximity of the Police antenna and the antenna used for ambulance dispatching is such that it is a feedback issue which is run into operational problems for us. By being able to separate the antennas vertically that would possibly eliminate the feedback issue. Also, it would provide greater range of coverage, depending where the antenna is located on the tower itself because we lead the community – Nashua, Manchester and Monadnock and we have to crank it over a larger distance compared to the local Fire and Police Depts. Which stay within the radius of TOM. He supports this proposal would support this proposal because it will replace the equipment that service needs to operate. We need MACC Base

to tell us where to go, we need to tell MACC Base where we are going. This tower irrespective of USC will be a benefit to the TOM and it won't cost us anything from a budgetary standpoint. His question regarding the visual impact is that the top of this tower will be 140-150' in the air as it relates from Middle St. On Nashua St. the antenna is 110-120' above the ground, visually, just looking around he understands the visual pollution and appreciates that and would hate to see it get significantly worse but the benefit of this proposal, as it relates to having a tower antenna for Milford Ambulance and MACC Base far outweighs the visual aesthetics at this point.

Steve Rougeau, Emergency Management stated that Eric said everything that he could add to it, but we support it and it would be a benefit.

Nancy Amato, BOS Chairman informed everyone that when the BOS voted on this issue, we voted with real strong reservations on weighing the pros and cons and are very glad it has come before the Planning Board. The structure is definitely ugly. She had a question for K. Kozyra. Her indication was that you would pay for our structural engineering not just to review your documentation. K. Kozyra responded that whatever the BOS wants them to do, we would pay for. N. Amato stated that another thing the BOS was going to ask during negotiations that they re-evaluate this tower every five to ten years and if there is a less obtrusive alternative, they will replace the tower and it would just be the cost of the replacement and that you would bond any damage done to the building. We didn't vote yes on this because of the relatively small amount of money that would be coming into the TOM. She did ask for about \$25,000/month. The only reason we voted for this was because of the emergency services and their lack of communication. S. Sareault asked for a \$ figure to replace the tower? K. Chambers, TOM Administrator stated they received an estimate for up to \$150,000 for some of the emergency services to replace and upgrade to the point of equitable service. K. Kozyra stated that the \$75,000 was just for the tower, it didn't include any of MACC Base's equipment replacement or any cabling or anything else. J. Dannis suggested that one way to get some assistance on the lease payment would be to look to experts in the room as to what it costs to put a tower in an alternative (residential) site and then to basically calculate the difference and get it in the form of lease payment. From his experience, it is substantially more than \$75,000 to construct towers in residential areas and that is the base case that the TOM should be compensated for should we allow this proposal, it is a great deal for them, but we should be compensated.

S. Sareault stated that it comes down to the fact that it is a benefit to the TOM in allowing this to go forward; there is a drawback to the TOM in the eyes of many people i.e. visual impact. He doesn't know how much debating the lease is the purview of this Board and a number of other issues, he thinks we need to work on getting a better understanding of the visual impacts, the photo simulations need to be improved, the existing tower should be shown at the same time as the proposed tower, we should do the balloon test, need further review of the structural issues and move forward. He doesn't see where debating much more of the impacts of the plan at this time would get us very far until we at least cross those bridges. He then made a motion to table as stated above, T. Sloan seconded the motion. J. Dannis asked that in the next

presentation we see a more complete analysis of the areas of our regulations that you wouldn't be meeting with this proposal.

R. D'Amato ventured to say if you go on the street today and ask people about the towers on the building, they don't even know they are there. Also, he feels that we are making a case and this is just a way of forestalling everything and if these people are willing to move ahead, we have departments that need the tower and we are looking this thing in the face, it reminds him of the case of the Mill Apartments. This tower reminds me of everyone trying to find an excuse to do nothing, which is a bunch of baloney. S. Sareault took serious offense to R. D'Amato's statement that this is a done deal and they are going to get accepted because we are evaluating this and maybe his (R. D'Amato's) mind is made up but he doesn't think the entirety of the Board is made up and thinks the Board is within its rights to ask for this stuff and it is okay. He doesn't think we are making people go through the motions just to go through the motions. R. D'Amato feels the opposite.

Clarification of the above motion:

S. Sareault made a motion to table to November 18, 2003, pending the following

1. Better understanding of the visual impact, the photo simulations need to be improved
2. The existing tower should be shown at the same time as the proposed tower
3. The balloon test should be done
4. Further review of the structural issues

He doesn't see where debating much more of the impacts of the plan at this point will get us very far until those bridges have been crossed.

D. D'Amato then stated that if you ask people about the towers on the building, they don't even know they are there. He also stated that we are making a case, and presenting all this stuff is just forestalling everything and if these people are willing to move ahead, we have departments who need the tower. This is just a matter of everyone sitting here and finding an excuse not to do something. S. Sareault informed D. D'Amato that he takes serious offense to his statement that this is a done deal and they are going to get accepted because we are evaluating this and he doesn't think the entirety of the Board have made a decision and the Board is within its rights to ask for the material. He doesn't think we are making people go through the motions just to go through the motions. D. D'Amato disagrees. D. D'Amato went on stating that we are not hearing any opposition from the audience.

Nelson Taylor (Nell) of MACC Base then gave his personal opinion. The replacement of the two towers would be the magnitude of antennae that are up there to one central located tower with less antennas would be a much better visual impact for the downtown than what is currently on the roof. Not to downgrade the balloon theory (he thinks it is a great idea) however, the best test for that has been done for the last 20 years.

N. O'Connell she left a list of things that were part of the BOS motion so this Board knows what the Selectmen were asking in our motion and asked that they be read with

the exception of the last one. The last one was added by her today. We all had the same concerns as explained by Nancy Amato that the Board is coming up with and tried to address them. Craig Frye, Police Dept. asked if the new antenna would alleviate the dead spots in Wilton? We share the police frequency with Amherst and Wilton. Quite often there are dead spots in both Wilton and Amherst. It addresses us, being the larger agency, we do have mutual aid in both towns and we sit in our cruisers and wonder about when Nelson will get on the radio and say, we haven't heard from then in five minutes, let's go and find out if the people are okay. Being on the road and worrying what the antenna looks like for public view versus public safety, don't equal out at all. He feels public safety should come first. He has lived here for 37 years and doesn't think he started looking at the top of the roof until he heard Nelson jumping over the antennas and thinking maybe one was down. He never looks at the roof. D. D'Amato commented that if a balloon were flown everyone would know it is up there.

Hub Seward stated that they don't comply with the telecommunications section of the ordinance. Do they allow for a variance or a waiver or are they absolutely prohibited? P. Amato pointed out that the ordinance says, "shall". B. Parker stated that he thinks it might be necessary to go for a variance.

Vote on the motion:

Affirmative: P. Amato, S. Sareault, J. Dannis, T. Sloan; Opposed: W. Fitch and D. D'Amato.

S. Sareault mentioned that a balloon test needs to be scheduled.

N. Taylor stated that he had forwarded a memo addressed to the BOS relative to this issue. N. O'Connell stated that they added to their motion (BOS) that they wanted an independent structural engineer; repairs that are needed right now on this building to be done; bonding for any damage that the building would incur, either with erection of the building or with anything that would happen with the building to include cosmetic and structural; any liabilities for any accidents and losses to life and property; bonding for the removal; finalize the terms of agreement regarding the rent; and the potential use for their other towers around for our emergency services so that we would expand our antennas onto the tower that is already there at their expense. They have agreed to all of this and we haven't as of yet negotiated the terms of the contract as of yet. We tried to cover all the bases when it became before them several times. P. Amato asked how the BOS try to put themselves on an equal footing to negotiate this contract with people that are in the industry? N. O'Connell responded that she believes they have the appropriate people. They want this contract.

Chairman Murray had a question as to when to advertise the balloon test. It is too late for this week's cabinet, so it will have to get in next week's Cabinet; we can use the Telegraph to advertise the balloon test. B. Parker felt that we could get it in the Telegraph; we can work with the agency. K. Kozyra stated they could work with staff to arrange an appropriate time and advertising medium.

8:40 PM

Note: N. O'Connell now sitting on the Board

6. Leon & Nancy Frye – 185 Mt. Vernon Rd. – Map 8, Lot 78 – Public hearing for a three-lot subdivision (two new lots) – new application

A motion was made by S. Sareault, seconded by N. O'Connell, and unanimously voted in the affirmative that the proposed subdivision represents no potential regional impact.

The owner/abutter list was read into the record: Present – Leon & Nancy Frye, owners; Earl Sandford of Sandford Surveying & Engineering; abutter – Craig & Wendy Frye.

A motion was made by S. Sareault, seconded by N. O'Connell and unanimously voted to accept the application.

E. Sandford presented the plan:

1. The owners met with both Kevin Lynch and B. Parker in an attempt to move forward. They worked with Patch Hill Development to come up with some things that would be agreeable to both parties regarding the slope easement and ways to make the road safer by eliminating the retaining wall and adjusting the intersection.
2. The subject lot is off Rte. 13, N – Map 8, Lot 78. 8/78 as shown will include all three lots. Proposing to add two additional lots.
3. It meets all the criteria and no waivers or variances are required.

P. Amato asked the average lot size in the Patch Hill subdivision? E. Sandford replied the average is 9,000 SF.

E. Sandford then spoke to the easement along Map 8, Lot 77 (Craig & Wendy Frye's property) on the south side. The lot didn't have frontage but there was an easement running along the south side of Map 8, Lot 77, which services both houses, as they exist. The new lots have had driveways graded in off Patch Hill Lane. The non-conforming lot will now become conforming. The existing driveway runs along the south side through an easement accessing both Leon and Craig's property.

Sewer - Earl explained that it has been negotiated to be connected during the construction for this lot. It is all gravity to the pump station and then up to Falconer Avenue.

A motion was made by N. O'Connell, seconded by W. Fitch and unanimously voted in the affirmative.

1. Note on plan indicating that any new construction on the new building lots shall be subject to all applicable Town impact fees;
2. A note indicating that the plan/profile, utility plan and drainage and erosion plan for the subdivision is according to the approved subdivision plan of Patch Hill on 8/19/03 (Tax Map 8, Lots 77-1 and -2; Map 9, Lot 1, Map 1 and Map 17, Lot 12).
3. Monumentation be set or security submitted to the Town to cover cost of the monumentation.

8:50 PM

Craig & Wendy Frye - 189 Mt. Vernon Rd. – Map 8, Lot 77 – Public hearing for a two-lot subdivision (one new lot) – new application

A motion was made by S. Sareault, seconded by J. Dannis and unanimously voted that the proposed subdivision represents no potential regional impact.

The owner/abutter list was read into the record: Present – Craig & Wendy Frye, owners; Earl Sandford, Engineer; and Leon & Nancy Frye.

A motion was made by P. Amato, seconded by S. Sareault and unanimously voted to accept the application.

E. Sandford gave the presentation:

1. The proposal is to subdivide their existing lot into two lots. When the other subdivision was being reviewed there were issues of safety, and retaining wall and we were encouraged to have dialogue between the owners of Patch Hill and the owner. As a result, the retaining wall was eliminated, which would have had to be maintained by the Town and also adjusting the intersection to something more square and allowed for better placement and fulfill some of the requirements the State had in terms of widening it slightly for a fire truck, etc. turning radius in/out of Patch Hill Lane.
2. There is landscaping around his house at this time. Originally, we tried to divide it down the middle but he landscaping works well by staying around the house, which makes the shape of the lot somewhat abnormal but there is plenty of room for an envelope for a building down below. There are some slopes and maybe they could use that area and access off of Patch Hill Lane. The grade of the driveway is 10%.

The issue came up regarding a proposed sewer service easement on the west portion of 8/77-2. E. Sandford stated that the closest they could get from the sewer manhole to gravity feed in this location, the closest location to this lot was at the back of G. LaPlante's lot. He shows on the plan where they could get a manhole, etc. The five lots could be gravity fed.

S. Sareault referenced the driveway easement that goes across the new lot 8/77-2 and asked if there should be some type of easement? E. Sandford responded that it would be written in the deed to be able to maintain that access.

N. O'Connell made a motion to approve the plan, seconded by W. Fitch; pending the following:

1. Note on plan indicating that any new construction on the new building lot shall be subject to all applicable Town impact fees;

2. A note indicating that the plan/profile, utility plan and drainage and erosion plan for the subdivision is in according to the approved subdivision plan of Patch Hill on 8/19/03 (Tax Map 8, Lots 77-1 and -2; Map 9, Lot 1, and Map 17, Lot 12).
3. Monumentation to be set or security submitted to the Town to cover cost of the monumentation.

Final vote – all in favor.

8:55 PM

8. Hampshire Hills/Danielson Realty Trust - Map 48, Lot 52 – Ponemah Hill Rd. - Proposed subdivision – Tabled from 9/16/03

J. Heavisides – Meridian Land Services –

1. This subdivision was previously presented as a three-lot subdivision and has been reduced to a two-lot subdivision.
2. The lot to the south would be too tight and as a result it was combined.
3. A site walk had been conducted. Driveways were discussed – they move the two driveways to be closer together to ease the congestion and provide adequate site distance in both directions.
4. An access easement was proposed on Lot 52-2 for the benefit of 52-1.
5. There are two trees i.e. a 5" and 9" maple that will probably have to be removed. The trees have a common base. If they stay up the site distance would probably be 285-290'. The trees are in the Town right-of-way. The right-of-way is very close to the edge of pavement, probably 6" to 1' into the right-of-way.

S. Sareault asked if there is any other roadwork that will be subject to a Scenic Road hearing other than the driveways? J. Heavisides responded in the negative, the utilities are straight across the road. T. Sloan asked if underground utilities could be done once you reach the west side of the street? J. Heavisides responded that it could be possible. T. Sloan asked if it would be possible to get a crossing to put it underground. J. Heavisides doesn't think PSNH would go for it. The only trees that would be affected would be the 5" and 9" maples. All the trees in the right-of-way are shown on Page 3.

J. Dannis questioned the driveway grades – J. Heavisides stated that 52-2 is 5 or 6%; 52-1 section of 8% - it comes off at 3% for 25-30' and goes down to 8% around the turn-around area and in front of the house @ 3'. J. Dannis asked (other than the scenic road issue) if there is any other way in which this proposal does not meet all of our regulations i.e. any other waivers or other issues that are in non-compliance that we should be apprised of. J. Heavisides replied that he isn't aware of any except for the scenic road.

S. Sareault questioned the triangular piece in the lower left-hand corner. J. Heavisides responded that this maintains the frontage for the remainder of Lot 48-52. In order to keep the frontage, we had to maintain this property line to come at an angle. The property line is along the zoning line. The triangle is part of 48/52.

N. O'Connell then spoke to the staff notes and the monumentation and when we got paperwork from the CC they suggested that the easement be monumented. It is a

property between Rick Holder and the State of NH. H. Seward, CC explained that it is the remainder of 48/52 and there isn't any way to access it through its road frontage. He stated that the CC wanted to look at the terms of the easement. JR. Holder stated that Attorney Fillmore has drafted up these deeds and they will have to be reviewed by B. Drescher. J. Dannis questioned if the State is aware of this proposal to subdivide. R. Holder responded that Christine Fillmore has been talking with them and is handling the situation. She was very particular in drafting the easement so that it met all the standards that both the State and Town requires. There may be some overlapping. J. Dannis questioned this because there were a lot of concerns raised by abutters about drainage into that area and Jay is saying that the lots are buildable as shown and to the extent that the State who has had an interest in wetlands is aware of it. It would be useful to the Board to help squash the concerns of the abutters. J. Heavisides then stated that part of the restoration plan problem with Hampshire Hills was to give a conservation easement to the State and we have been in negotiations with them for a couple of years regarding the size of the easement. This is what has been agreed to – a parallel 25' easement to the Town's 25' setback. The total easement is 50'.

S. Sareault spoke to the monumentation of the CC easement. Rick Holder responded that they would see to it that the monumentation is taken care of. J. Heavisides said that they would just be setting pins, not granite bounds.

P. Amato made a motion to grant final approval pending staff recommendations of 10/21/03 and the easement monumentation; seconded by N. O'Connell and unanimously voted.

9:15 pm

9. Falcon Ridge - Maple St. & Whiting Hill Rd. - Map 3, Lots 4 & 5 – Continuation of design review – tabled 9/16/03

Steve Moheban, owner and J. Heavisides of Meridian Land Services were present. J. Heavisides gave the presentation by stating that for the second time, open space design and lot configuration issues are being discussed.

J. Heavisides presented a revised layout that was intended to incorporate concerns previously expressed by the Board, noting a wider connection from the east side of the site to the hilltop. He also noted that the field adjacent to Frog Pond would remain open. S. Sareault then commented that the redesigned open space layout better.

After a discussion period of approximately ½ hour, N. O'Connell brought up notification of other Towns in the area and felt that should be part of the open space discussion. We have Carnival Hill and other open spaces within those Towns that may or may not be adjacent here. Do we want to have an association own all of it, it isn't just our issue. S. Sareault didn't want to make a decision on this matter; he just wants to get the process started. He felt that contacting Wilton and Lyndeboro are definite requirements as part of the regional impact situation. N. O'Connell felt that we should get involved with other Town's Conservation Commissions so we would be discussing how all of the open space works.

Chairman Murray asked if the Board is ready to go forward for them to come back with a formal application. S. Sareault was comfortable but it is their decision. There appeared to be consensus with the Board that the applicant could proceed with a formal application.

Atty. Andrew Prolman stated that they are in a position to make formal application. With that we expect to make application within the next few weeks and that means we will be back in December and he asked if they could have their regional impact meeting at that time. P. Amato then stated that if he takes it upon himself to notify the other towns. B. Parker then informed the Board that the normal process is to act upon regional impact before the application is accepted.

At this time, S. Sareault made a motion that the plan poses potential regional impact based on the development's proximity to the Town boundaries of Wilton & Lyndeborough impacts on the adjacent roads and need for input from the Conservation Commission of the towns of Wilton and Lyndeborough; seconded by P. Amato, all in favor. Also, NRPC would have to be notified. Mr. Prolman offered to notify the other Towns Conservation Commission regarding open space? B. Parker explained that we refer it to our Conservation Commission and then get their comments back.

10. Marc deMontigny - 322 Nashua St. – Map 25, Lot 109 – Discussion for a major site plan for Stone House Motel -

This item was withdrawn.

9:40 pm

11. Marion Vallier - 149 Mile Slip Rd. – Map 45, Lot 18 – Public hearing for a minor subdivision of one lot into one two-acre lot and a remainder lot of 68.5 acres – new application

Motion by N. O'Connell, seconded by J. Dannis and unanimously voted that the proposed subdivision represents no potential regional impact.

The owner/abutter list was read into the record: Present – Marion Vallier, owner; Tom Benedict of Meridian Land Services and Dennis Clemons, abutter.

A motion was made by P. Amato to accept the application; seconded by J. Dannis and unanimously voted.

T. Benedict gave the presentation as follows:

1. The present lot is just over 70 acres.
2. Their plan is to subdivide out a two-acre lot from the front leaving 68.5 acres in the back.
3. Proposing to come in at the existing driveway that services the existing house on the lot.

4. Proposing a small access easement to allow for continued of the driveway and enter the same way to the lot. The lot is problematic because it is somewhat steep.
5. When the CC first reviewed this plan, there was a miscommunication in our office that there were some wetland pockets up on top that wouldn't affect the buildings. We did note on the plan that there was wet on the upper part of the lot. C. Guida, member of CC, witnessed the wetlands and made note to the CC.

The driveway easement was then discussed. The new lot is clipping a small corner of the existing driveway; there is a culvert underneath the existing driveway. The easement to the existing house will have an easement off the new lot to benefit the existing lot. The culvert is actually in the right-of-way. There will be no disturbance of the existing driveway.

J. Dannis questioned the grade of the driveway. T. Benedict doesn't have an answer and he isn't qualified to respond. It has neither been looked at nor studied it. He knows that driveways have been constructed similarly along Mile Slip Rd.

S. Sareault then explained that on Mile Slip Rd. the Board has taken a pretty firm stand on additional lots further down the road. He doesn't necessarily object to one lot, but he feels we should be careful about one lot here, one lot there and could add up to a subdivision of ten lots. He is cautious of his support of it based on the previous issues we had on Mile Slip Rd. He feels that stopping this application puts a hardship on an applicant that is a little heavy to bear. N. O'Connell stated that when Ms. Vallier first came in, she asked us our advice and we gave it and now she is back for the final subdivision.

Abutter, Dennis Clemons voiced a concern regarding a cut in the driveway and drainage. T. Benedict didn't think there would be any alteration required on the existing driveway. There won't be any disturbance to the entrance or the driveway. M. Vallier stated that they wouldn't change the driveway going out to the road; they will have to put in a culvert. The culvert that presently exists will stay. The 68 acres is staying with the house. With the above issues being resolved, he (D. Clemons) doesn't have a problem.

B. Parker suggested an added condition be that when the building permit is taken out on Lot 18-3, the driveway permit provide a detail on how the drainage is handled.

T. Sloan made a motion to approve the plan, seconded by S. Sareault and unanimously voted to approve the plan pending staff recommendations and the note suggested by B. Parker.

A motion was made, seconded and unanimously voted to adjourn the meeting at 10:05 pm.